

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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Harry G. Beyoglides, Jr.,
Special Administrator of the
Estate of Robert Andrew
Richardson, Sr., Deceased,
Plaintiff,

vs.

Case No. 3:14-CV-00158

Phil Plummer/Montgomery County
Sheriff, et al.,
Defendants

- - -

DEPOSITION OF BRADLEY MARSHALL
the Defendant herein, called by the Plaintiff under the
applicable Rules of Civil Procedure, taken before me,
Whitney Layne, a Notary Public for the State of Ohio, at
the law firm of Dinkler & Pregon, 5335 Far Hills Avenue,
Suite 117, Dayton, Ohio 45429 on December 9, 2015 at
3:30 p.m.

LAYNE & ASSOCIATES
6723 COOPERSTONE DRIVE
DUBLIN, OHIO 43017
614-309-1669

<p>1 APPEARANCES 2 3 NICHOLAS DICELLO, ESQUIRE SPANGENBERG, SHIBLEY & LIBER 1001 Lakeside Avenue 4 Suite 1700 Cleveland, Ohio 44114 5 on behalf of the Plaintiff 6 7 JAMEY PREGON, ESQUIRE DINKLER & PREGON 5335 Far Hills Avenue 8 Suite 123 Dayton, Ohio 45429 9 on behalf of the Sheriff Defendants 10 11 CARRIE STARTS, ESQUIRE REMINGER CO., LPA 12 525 Vine Street Suite 1700 13 Cincinnati, Ohio 45202 on behalf of the Defendants 14 NaphCare, Inc., Nurse Felicia Foster, Nurse Jon Boehringer, Nurse Krisandra 15 Miles, Medic Steven Stockhauser, and Brenda Garrett Ellis, M.D. 16 17 18 19 20 21 22 23 24</p>	<p>1 EXAMINATION INDEX 2 3 BRADLEY MARSHALL 4 BY MR. DICELLO.....Page 5 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
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<p>1 December 9, 2015 2 Wednesday Session 3 3:30 p.m. 4 - - - 5 STIPULATIONS 6 It is stipulated by and among counsel for the respective parties that the deposition of BRADLEY MARSHALL, the Defendant herein, called by the Plaintiff under the applicable Rules of Civil Procedure, may be taken at this time by the notary Whitney Layne; that said deposition may be reduced to writing in stenotypy by the notary, whose notes thereafter may be transcribed out of the presence of the witness; and that the proof of the official character and qualification of the notary is waived.</p>	<p>1 BRADLEY MARSHALL 2 Being first duly sworn, as hereinafter 3 certified, deposes and says as follows: 4 CROSS-EXAMINTION 5 BY MR. DICELLO: 6 Q Good afternoon. Could you state your name for 7 our court reporter and can you spell your last name, 8 please? 9 A Bradley Michael Marshall, M-A-R-S-H-A-L-L. 10 Q Mr. Marshall, my name is Nick DiCello. We just 11 met off the record. You understand you're here to have 12 your deposition taken today? 13 A I do. 14 Q Ever been deposed before? 15 A No. 16 Q By way of introduction, I represent the family of Robert Richardson, who died while in the care, custody, and control of the Montgomery County Jail back in 2012. 17 Do you understand that? 18 A I do. 19 Q Do you understand a lawsuit has been filed on behalf of his family members against yourself, against the county, against NaphCare, and some other individuals? 20 A I do.</p>
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<p>1 Q Do you understand that today's deposition is 2 being taken in connection with that pending federal 3 lawsuit?</p> <p>4 A I do.</p> <p>5 Q A couple ground rules just to make sure we get 6 an accurate record. Whitney is taking everything that we 7 say down. We have to wait for each other to stop talking. 8 She can only take one at a time. So please wait for me to 9 finish my question. Even though you know what I'm going 10 to ask, wait for me to finish and I'll wait for you to 11 finish. Understood?</p> <p>12 A I do.</p> <p>13 Q The way this will go is I'll ask the questions 14 and you'll provide the answers. Understood?</p> <p>15 A I do.</p> <p>16 Q If you don't understand a question that I've 17 asked, I want you to tell me that, okay?</p> <p>18 A Okay.</p> <p>19 Q Given that arrangement, if you answer a 20 question that I've asked you, I'm going to assume you 21 understood it; is that fair?</p> <p>22 A Yes.</p> <p>23 Q It's also important to remember to answer with 24 words: yes, no, or an explanation as opposed to shrugs of</p>	<p>1 your memory gets jogged about a question that I've asked 2 and you want to revisit the question and supplement your 3 answer or change it, I want you to take the opportunity to 4 do that today during the deposition, okay?</p> <p>5 A All right.</p> <p>6 Q And do you understand, sir, that I'm going to 7 be relying on the accuracy of the answers you give me 8 today in connection with this lawsuit?</p> <p>9 A I do.</p> <p>10 Q Just a little bit of background information, 11 Mr. Marshall. It's not to pry into your personal life, 12 but just to get some background on you. Are you from this 13 area?</p> <p>14 A I am.</p> <p>15 Q Whereabouts?</p> <p>16 A West Carrollton.</p> <p>17 Q Did you attend high school in West Carrollton?</p> <p>18 A I did.</p> <p>19 Q What year did you graduate?</p> <p>20 A 2010.</p> <p>21 Q What is your date of birth?</p> <p>22 MR. PREGON: Let's go off the record for that.</p> <p>23 MR. DICELLO: Sure.</p> <p>24 (Discussion held off the record.)</p>
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<p>1 the shoulders, uh-huhs and huh-uhs, okay?</p> <p>2 A Okay.</p> <p>3 Q One of us may remind you if you fall into habit 4 of saying uh-huh or something like that. It happens to 5 everybody.</p> <p>6 Do you understand you're under oath today, sir?</p> <p>7 A I do.</p> <p>8 Q Have you ever testified in a court?</p> <p>9 A Yes.</p> <p>10 Q And you understand the oath you're under today 11 is the same oath that you take when you testify in front 12 of a judge and a jury in a court of law?</p> <p>13 A Yes.</p> <p>14 Q Any reason you couldn't answer honestly and 15 truthfully today?</p> <p>16 A No.</p> <p>17 Q You understand that there are penalties 18 associated with giving dishonest answers under oath?</p> <p>19 A I do.</p> <p>20 Q Criminal and civil?</p> <p>21 A I do.</p> <p>22 Q If at any time today something jogs your 23 memory -- We're going to be talking about things that 24 happened a few years back. So if ten minutes from now</p>	<p>1 BY MR. DICELLO:</p> <p>2 Q How long have you been employed as a 3 corrections officer at the Montgomery County Jail?</p> <p>4 A Four years.</p> <p>5 Q What was your start date?</p> <p>6 A December 2011.</p> <p>7 Q So as of the time of Mr. Richardson's death at 8 the jail, you had been working there for about six to 9 seven months?</p> <p>10 A That's correct.</p> <p>11 Q Any formal education after high school?</p> <p>12 A Besides corrections training, no.</p> <p>13 Q When did you know you wanted to become a 14 corrections officer?</p> <p>15 A Honestly, I wanted to become a police officer 16 first, and I knew that becoming a corrections officer was 17 a foot in the door.</p> <p>18 Q So when did you decide you wanted to become a 19 police officer?</p> <p>20 A I would say probably after high school, around 21 age 18.</p> <p>22 Q And tell me a little bit about why you wanted 23 to pursue a career as a police officer in law enforcement?</p> <p>24 A It always interested me. My family was on the</p>
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<p>1 opposite side of the law when I grew up, so I wanted to be 2 on the other hand of that.</p> <p>3 Q Okay, that's a good reason. Are you still 4 trying to pursue a career in law enforcement as a police 5 officer?</p> <p>6 A Yes.</p> <p>7 Q May 19th, 2012 was a Saturday. I'm going to 8 ask you about what documents or anything you reviewed 9 before today's deposition. But my first question is: Do 10 you have a memory of that day?</p> <p>11 A Yes.</p> <p>12 Q Do you have a memory of the episode that 13 involved Mr. Richardson?</p> <p>14 A I do.</p> <p>15 Q Prior to May 19th, 2012, do you know if you had 16 ever met Mr. Richardson before?</p> <p>17 A No.</p> <p>18 Q Now, what if anything did you do to prepare for 19 today's deposition?</p> <p>20 MR. PREGON: Outside of meeting with counsel.</p> <p>21 A I reviewed my report that I generated on that 22 day.</p> <p>23 BY MR. DICELLO:</p> <p>24 Q The Tiburon?</p>	<p>1 the platform to see where I would be at that shift.</p> <p>2 Q So as of the time that you heard the radio 3 broadcast requesting officers to respond to D Pod, had you 4 yet been assigned to a post?</p> <p>5 A I would have, yes. But I wouldn't have taken 6 over until 15:30 hours or 3:30.</p> <p>7 Q What was your assignment on May 19th, 2012?</p> <p>8 A Third floor officer.</p> <p>9 Q Is that in a particular pod, or no?</p> <p>10 A It's a -- We've got the pod housing and then 11 we've got rollover housing, higher -- higher risk or 12 charged inmates, it would be -- we've got third, fourth 13 floor, those are male inmates that have higher charges in 14 the facility.</p> <p>15 Q Is that the linear complex?</p> <p>16 A Yes.</p> <p>17 Q As of May 2012, were you still in the training?</p> <p>18 A No.</p> <p>19 Q Is there a training period that you undergo 20 when you first hire on with the jail?</p> <p>21 A Yes.</p> <p>22 Q How long does that last?</p> <p>23 A Thirty working days.</p> <p>24 Q Do you remember what your start date was in</p>
<p style="text-align: center;">Page 10</p>	<p style="text-align: center;">Page 12</p>

<p>1 member of the community who is detained at the Montgomery 2 County Jail in a way that could restrict his or her 3 breathing?</p> <p>4 A I do.</p> <p>5 Q That's a rule at the jail; right?</p> <p>6 A I believe so.</p> <p>7 Q So one of the jobs of the COs at the jail is to 8 make sure that members of the community who find 9 themselves detained in the jail are not restrained in ways 10 that could restrict their breathing; correct?</p> <p>11 A That's correct.</p> <p>12 Q And I think you indicated that you've had your 13 own family members who have been detained at the county 14 jail, haven't you?</p> <p>15 MR. PREGON: Objection.</p> <p>16 A Uh-huh.</p> <p>17 BY MR. DICELLO:</p> <p>18 Q Yes?</p> <p>19 A I have.</p> <p>20 Q And your family members are loved members of 21 the community like other people who find themselves 22 detained there from time to time; true?</p> <p>23 A That's correct.</p> <p>24 Q Do you understand that the rule that applies at</p>	<p>1 handcuffs with their hands cuffed behind their back in a 2 prone position is never an acceptable practice and is 3 prohibited; do you agree?</p> <p>4 A No.</p> <p>5 Q You disagree with that?</p> <p>6 A Yes.</p> <p>7 Q So your testimony is that it is acceptable and 8 it is permissible to put members of the community who are 9 in restraints with their hands cuffed behind their back in 10 a prone position; correct?</p> <p>11 MR. PREGON: Objection.</p> <p>12 A In certain circumstances, yes.</p> <p>13 BY MR. DICELLO:</p> <p>14 Q Are those circumstances limited to applying the 15 restraints?</p> <p>16 A No.</p> <p>17 Q So you understand that even after the 18 restraints are applied that corrections officers at the 19 Montgomery County Jail can continue to restrain members of 20 the community in a prone position; true?</p> <p>21 MR. PREGON: Objection.</p> <p>22 A I would say that we can place them on the 23 ground. It depends on the situation that is evolving. We have inmates that come in the facility, you know, multiple</p>
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<p>1 the restraints are applied?</p> <p>2 A I could think of a million different scenarios.</p> <p>3 We've had fights where, you know, we've had to go in and</p> <p>4 have inmates lay on their stomachs, go in, cuff them, and</p> <p>5 then remove them from the cell. You know, there's --</p> <p>6 Q If I can interrupt. I appreciate that. It</p> <p>7 sounds to me like in the situation you just described, as</p> <p>8 soon as you apply the cuffs, you get them off their belly</p> <p>9 and you get them out of their cell; correct?</p> <p>10 A In most circumstances, yes.</p> <p>11 Q As you sit here today, can you think of any</p> <p>12 circumstances, outside of the ones you just described,</p> <p>13 where after the cuffs are applied and somebody is placed</p> <p>14 in a prone position to apply the cuffs with their hands</p> <p>15 cuffed behind their back, that it's acceptable and</p> <p>16 permissible to continue to restrain them in that position?</p> <p>17 A No.</p> <p>18 Q Officer Marshall, do you agree that corrections</p> <p>19 officers must never restrain members of the community who</p> <p>20 are in the Montgomery County Jail in a way that poses an</p> <p>21 unnecessary risk of death?</p> <p>22 A Yes.</p> <p>23 Q And when a corrections officer like yourself</p> <p>24 has two or more reasonable ways to go about restraining a</p>	<p>1 A Yes.</p> <p>2 Q What do you do; bench press, squat, all that</p> <p>3 stuff?</p> <p>4 A Yes.</p> <p>5 Q How much can you bench press?</p> <p>6 A Around 315.</p> <p>7 Q How much can you squat?</p> <p>8 A A lot less than that. I'd say about 300.</p> <p>9 Q How many times a week do you work out?</p> <p>10 A About five times a week.</p> <p>11 Q All right. Do you feel like you can handle</p> <p>12 yourself?</p> <p>13 A Yes.</p> <p>14 Q Have you been trained that the prone restraint</p> <p>15 position where somebody is on their belly with their hands</p> <p>16 cuffed behind their back while being restrained is a</p> <p>17 potentially dangerous and lethal position?</p> <p>18 MR. PREGON: Object to form.</p> <p>19 Go ahead.</p> <p>20 A Yes.</p> <p>21 BY MR. DICELLO:</p> <p>22 Q So tell me about what kind of training you've</p> <p>23 had that you remember where you learned that.</p> <p>24 A Before employment, they send you to --</p>
<p style="text-align: center;">Page 18</p>	<p style="text-align: center;">Page 20</p>

<p>1 restraint position with hands cuffed behind their back is 2 potentially dangerous and lethal, and I think you said, 3 yeah, you have received that training. 4 A I have. 5 Q But in the same training, you were never told 6 not to put people in that position. Is that what you're 7 saying? 8 MR. PREGON: Objection. 9 Go ahead. 10 A The way the training was explained was they 11 explained about positional asphyxiation. 12 BY MR. DICELLO: 13 Q Yeah. 14 A Things like that. But a lot of the handcuffing 15 work that we do is with subjects on their stomach, ways 16 to -- you know, an inmate is laying on their stomach with 17 their arms underneath their chest, not cooperating with 18 staff, ways to get their arms out and to place handcuffs 19 on them while they're in a prone position. 20 Q Were you trained to not continue to restrain 21 people in prone positions once you have them cuffed? 22 A Yes. 23 Q And what's your understanding of why you 24 shouldn't do that?</p>	<p>1 Q Were you ever trained that it should be done as 2 soon as possible? 3 A Yes. 4 Q Mr. Richardson was restrained in a prone 5 position with his hands cuffed behind his back; true? 6 A Yes. 7 Q And I know you've seen the video. I've been 8 putting the video between the time that Mr. Richardson is 9 pulled out of his cell until the time it's noticed that 10 he's no longer breathing, it's about 22 minutes. Is that 11 consistent with your memory? 12 A Yes. 13 Q And is that consistent with what you saw in the 14 video? 15 A Yes. 16 Q Would you agree during that 22-minute time that 17 there are times where Mr. Richardson is being restrained 18 by multiple officers in a prone position with his hands 19 cuffed behind his back? 20 A No. 21 Q So can you explain for me your last couple of 22 answers, which what I heard is Mr. Richardson was 23 restrained with his hands cuffed behind his back in a 24 prone position, and then your next answer was during the</p>
<p style="text-align: center;">Page 22</p>	<p style="text-align: center;">Page 24</p>

<p>1 A He was trying to move forward. I wouldn't say 2 we were holding him down. I wasn't putting pressure -- I 3 was -- In the video, I have my knee in front of his 4 shoulder, that way he can't keep moving forward towards 5 the stairs at that point.</p> <p>6 Q So if Mr. Richardson was trying to get up and 7 he wasn't being held down, why didn't he get up?</p> <p>8 MR. PREGON: Objection.</p> <p>9 A I would say because at times when he was 10 moving, it would have been -- it would be hard for him to 11 stand up on his two feet while he's on his stomach or in a 12 prone position. Most of the time when we -- when we have 13 inmates that are cuffed in a prone position, when we 14 assist them up, we have to roll them to their side. And 15 we're trained to have them kick their knees or push their 16 knees up towards their stomachs so we can sit them on 17 their -- on their butt, and then we assist them to their 18 feet.</p> <p>19 Q Did any of your supervisors ever instruct you 20 to sit Mr. Richardson on his butt?</p> <p>21 A No.</p> <p>22 Q Did you ever suggest that that should be done?</p> <p>23 A No.</p> <p>24 Q Why not?</p>	<p>1 himself and you and the other corrections officers that 2 were there, that if instructed to put Mr. Richardson into 3 the restraint chair, you all could have accomplished that. 4 Do you agree?</p> <p>5 MR. PREGON: Objection.</p> <p>6 A Yes.</p> <p>7 BY MR. DICELLO:</p> <p>8 Q While you were there, do you ever remember 9 anybody from NaphCare instructing you to put 10 Mr. Richardson in the restraint chair?</p> <p>11 A No.</p> <p>12 Q Do you remember any sergeant instructing you to 13 put Mr. Richardson in the restraint chair?</p> <p>14 A No.</p> <p>15 Q Did you ever see the restraint chair come up 16 onto the second floor?</p> <p>17 A No.</p> <p>18 Q To your knowledge, was the restraint chair ever 19 brought into the pod?</p> <p>20 A No.</p> <p>21 Q I want to understand the timing of things a 22 little bit. I've looked at this video many times. I'm 23 going to ask you to identify yourself in a moment. But 24 before we get there, I presume, because I've asked a lot</p>
<p style="text-align: center;">Page 26</p>	<p style="text-align: center;">Page 28</p>

<p>1 A Because we had NaphCare there at the time, and 2 they didn't -- they were working on him to try to figure 3 out what was medically going on with him. And they never 4 stated to move him from the position that he was in.</p> <p>5 Q If NaphCare had instructed you to roll 6 Mr. Richardson over onto his back, do you think you and 7 the other officers were capable of doing that?</p> <p>8 A Absolutely.</p> <p>9 Q And would you have followed those instructions?</p> <p>10 A Absolutely.</p> <p>11 Q If NaphCare had instructed you and the other 12 officers to sit Mr. Richardson on his butt, do you think 13 you and the other officers were capable of accomplishing 14 that?</p> <p>15 A Absolutely.</p> <p>16 Q And would you have followed those instructions?</p> <p>17 A Yes.</p> <p>18 Q I got the chance to depose most of your fellow 19 corrections officers already, one of whom was Officer 20 Stumpff. Do you work with Officer Stumpff?</p> <p>21 A I do.</p> <p>22 Q Officer Stumpff's testimony will speak for 23 itself. I'm doing my best to recall what he said. But I 24 believe his testimony was that he believed that between</p>	<p>1 of people questions before meeting you, that you learned 2 about the incident on the second floor of Pod D through 3 radio transmission?</p> <p>4 A Yes.</p> <p>5 Q And you learned that there was a medical 6 episode? It was a medical call?</p> <p>7 A No.</p> <p>8 Q Or tell me.</p> <p>9 A I believe the call was an uncooperative inmate 10 in Delta Pod. And that's all that it was broadcasted as.</p> <p>11 Q Did you respond immediately?</p> <p>12 A Yes.</p> <p>13 Q And my understanding is the way you guys do it 14 is you respond in numbers, get control of the situation, 15 and then maybe some of you can go back to your other 16 posts. Is that fair?</p> <p>17 A Yes.</p> <p>18 Q So when you responded, did you respond alone or 19 did you respond with other officers if you remember?</p> <p>20 A I believe there were other officers with me, 21 but I don't know who they were.</p> <p>22 Q When you arrived, can you tell me who was there 23 and what was happening?</p> <p>24 A When I arrived, it was I believe Sergeant</p>
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<p>1 Jackson and Dustin Johnson were there. I don't recall 2 anybody else to my memory. And they were there attempting 3 to cuff or already had cuffed Mr. Richardson.</p> <p>4 Q Did you assist in cuffing Mr. Richardson up?</p> <p>5 A I don't believe so.</p> <p>6 Q When you arrived, did someone instruct you what 7 to do or did you just instinctively do something?</p> <p>8 A With the number of officers that were there, 9 being just a sergeant and one other corrections officer, I 10 believe, I immediately just tried to assist with what I 11 thought needed to -- you know, where help needed to be 12 done.</p> <p>13 Q So do you remember what action you took?</p> <p>14 A I believe we were -- they had removed him from 15 the cell at the time that I had already arrived, and he 16 was on his side. And I basically -- I think I'm closest 17 to the railing. I just kneeled down, and I'm trying to 18 just keep him in place from moving forward, because at 19 this time I don't know if it's a medical emergency, if 20 this guy has been into a fight. You know, it's an 21 evolving situation going on that I'm coming into. I 22 really don't know what's exactly happening at this point.</p> <p>23 Q At the time you arrived or as you were able to 24 kind of get your bearings, did you appreciate that</p>	<p>1 Q And that was to control Mr. Richardson's 2 movements; correct?</p> <p>3 A Yes.</p> <p>4 Q And at times you had to put some pressure on 5 his back; correct?</p> <p>6 A Pressure on his shoulder. It wouldn't be his 7 back. It would have been his right shoulder I had my 8 hands on, pressure.</p> <p>9 Q And sometimes you had to put more pressure than 10 others; true?</p> <p>11 A Yes.</p> <p>12 Q The video is pretty good evidence, but it is a 13 little grainy; agreed?</p> <p>14 A Yes.</p> <p>15 Q And it only takes kind of a snapshot every 16 second or something; right?</p> <p>17 A Yes.</p> <p>18 Q So it's not a fluid image; right?</p> <p>19 A Yes.</p> <p>20 Q There are times where I've watched the video 21 and you appear to kind of get off of your knees and kind 22 of get into what I'm calling like a catcher's like 23 position. Do you remember doing that?</p> <p>24 A I do.</p>
<p style="text-align: center;">Page 30</p>	<p style="text-align: center;">Page 32</p>

<p>1 Mr. Richardson was an overweight guy?</p> <p>2 A I understood that he was, you know, larger than 3 the average human.</p> <p>4 Q And did you hear him saying anything?</p> <p>5 A I remember him mumbling, but not -- not 6 anything, you know, telling us to, you know, stop what we 7 were doing. And at the time, I'm trying to -- you know, 8 you've got everybody else talking, whether that be other 9 corrections officers speaking with the other inmate that's 10 in the room, there's a lot of -- you know, there's a lot 11 of background noise --</p> <p>12 Q Commotion?</p> <p>13 A -- going on, and you have other inmates in 14 cells, you know, banging on doors, screaming out, stuff 15 like that.</p> <p>16 Q All right.</p> <p>17 A So --</p> <p>18 Q So you would agree with me that there are times 19 where you place both hands on Mr. Richardson's back; 20 correct?</p> <p>21 A Yes.</p> <p>22 Q And there are times when you have one hand 23 placed on his back; correct?</p> <p>24 A Yes.</p>	<p>1 Q And there are times you can be seen with your 2 arm resting on the railing?</p> <p>3 A Yes.</p> <p>4 Q And the way I look at those images, there are 5 times where it appears that your right knee may be over 6 top of Mr. Richardson's right shoulder area; is that true?</p> <p>7 A No.</p> <p>8 Q Your testimony is you never put your knee on 9 Mr. Richardson's shoulder?</p> <p>10 A No.</p> <p>11 Q Why didn't you do that?</p> <p>12 A Because there would be no need to. With how he 13 was moving, if I put my knee in front of his right 14 shoulder, that's going to stop him from -- how I was 15 trained, it's going to stop him from moving forward, by 16 just placing my knee in front of him, with him being 17 handcuffed behind his back at that time.</p> <p>18 Q So he wasn't trying to -- You know, if this was 19 his right shoulder, at the time that you were -- had your 20 knee where it was, he wasn't thrashing around like that, 21 was he?</p> <p>22 A At times, yes.</p> <p>23 Q So at the times that he was struggling, that's 24 when you had to use your hands to hold him down?</p>
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<p>1 A That's correct.</p> <p>2 Q I think it was Officer Stumpff who was kind of 3 in your similar position but on the opposite shoulder. Is 4 that your recollection?</p> <p>5 A I believe so.</p> <p>6 Q And was Officer Stumpff more or less doing what 7 you just told us you were doing?</p> <p>8 A Yes, I believe so.</p> <p>9 Q So at times he was putting his hands on 10 Mr. Richardson's shoulder blades and holding him down?</p> <p>11 A Just trying to control him from thrashing his 12 body and moving forward. Because at that time, while we 13 were in place where we're at, the medic is trying to work 14 on him. And we're trying to just keep him in a position 15 to where the medic can continue to provide whatever care 16 that he was trying to provide at that time to 17 Mr. Richardson.</p> <p>18 Q Before I get to some questions about the medic, 19 though, but do you think based on your observations that 20 Officer Stumpff was doing the same thing that you just 21 described that you were doing, where at times Officer 22 Stumpff had to put more pressure on the shoulder than at 23 other times?</p> <p>24 MR. PREGON: Objection.</p>	<p>1 you know, take pressure off. But I would keep my knee in 2 that spot. That way, he couldn't move forward from the 3 position that we were at.</p> <p>4 Q Officer Marshall, have you ever received any 5 training that the use of prone restraint is prohibited in 6 the State of Ohio?</p> <p>7 A No.</p> <p>8 Q Have you ever reviewed any documents that 9 indicate that the use of prone restraint is prohibited in 10 the State of Ohio?</p> <p>11 A No.</p> <p>12 Q Has anyone from Montgomery County Sheriff's 13 Office or NaphCare ever provided you with a copy of what 14 I'm going to show you right now, which is an executive 15 order from the governor of the State of Ohio that includes 16 a ban on prone restraint?</p> <p>17 MR. PREGON: Are you wanting him to read this 18 whole document?</p> <p>19 MR. DICELLO: It looks like that's his 20 preference. If that's his preference to read it, I'm not 21 going to tell him not to read it.</p> <p>22 BY MR. DICELLO:</p> <p>23 Q My question is: Has anybody from the sheriff's 24 office ever provided you with that document?</p>
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<p>1 BY MR. DICELLO:</p> <p>2 Q You can take your time and read it if you want,</p> <p>3 Mr. Marshall.</p> <p>4 A (Reviewing document.)</p> <p>5 MR. PREGON: Do you want some water?</p> <p>6 THE WITNESS: Yes, please.</p> <p>7 MR. PREGON: Can we go off the record while he</p> <p>8 reads?</p> <p>9 (Discussion held off the record.)</p> <p>10 BY MR. DICELLO:</p> <p>11 Q Have you had a chance to read it?</p> <p>12 A Yes.</p> <p>13 Q Do you think that that is the kind of document</p> <p>14 that you should have been made aware of in connection with</p> <p>15 your duties and responsibilities as it relates to</p> <p>16 restraining people at the jail?</p> <p>17 MR. PREGON: Objection.</p> <p>18 Go ahead and answer.</p> <p>19 A If this is the law, yes, I believe I should</p> <p>20 have been made aware of it.</p> <p>21 BY MR. DICELLO:</p> <p>22 Q And this executive order, I know you took some</p> <p>23 time to read it, but this executive order indicates that</p> <p>24 the use of prone restraint is prohibited across all state</p>	<p>1 Q Can you access PowerDMS -- I presume PowerDMS</p> <p>2 has the jail manual on it?</p> <p>3 A Yes.</p> <p>4 Q Can you access PowerDMS from within the</p> <p>5 facility?</p> <p>6 A Yes.</p> <p>7 Q Can you access PowerDMS from outside the</p> <p>8 facility?</p> <p>9 A I believe so.</p> <p>10 Q To become a corrections officer, is it your</p> <p>11 understanding that you're required to read and be familiar</p> <p>12 with the jail manual policies?</p> <p>13 A Yes.</p> <p>14 Q And do you rely on your supervisors to provide</p> <p>15 you with the training necessary to make sure you're</p> <p>16 following the policies?</p> <p>17 A Yes.</p> <p>18 Q I haven't made this an exhibit just because</p> <p>19 it's kind of bulky. I guess I could have. But I want to</p> <p>20 show you the copy I have brought down here of the</p> <p>21 Montgomery County Jail Manual's use of restraints policy.</p> <p>22 A Uh-huh.</p> <p>23 Q Mine is all highlighted and tabbed. But is</p> <p>24 that a policy that you're expected to be familiar with and</p>
<p style="text-align: center;">Page 38</p>	<p style="text-align: center;">Page 40</p>

<p>1 wasn't placed in a spread eagle position; correct?</p> <p>2 A Correct.</p> <p>3 Q And if Mr. Richardson was hog-tied, he couldn't</p> <p>4 even be put in a spread eagle position; correct?</p> <p>5 A Correct.</p> <p>6 Q So is it apparent to you from reading this that</p> <p>7 hog-tying, placing someone prone whose in restraints, and</p> <p>8 spread eagle are three separate positions?</p> <p>9 A Yes.</p> <p>10 Q So I want to focus on the position referenced</p> <p>11 in the policy that deals with placing prisoners who are in</p> <p>12 restraints in a prone position, okay?</p> <p>13 A Okay.</p> <p>14 Q Because that's how Mr. Richardson was placed;</p> <p>15 correct?</p> <p>16 MR. PREGON: Objection.</p> <p>17 A Correct.</p> <p>18 BY MR. DICELO:</p> <p>19 Q So placing prisoners who are in restraints in a</p> <p>20 prone position is never an acceptable practice and is</p> <p>21 prohibited according to the written policies at the jail;</p> <p>22 correct?</p> <p>23 A According to this policy, yes.</p> <p>24 Q This policy isn't consistent with the actual</p>	<p>1 BY MR. DICELO:</p> <p>2 Q With his hands cuffed behind his back?</p> <p>3 A That's correct.</p> <p>4 Q According to the policy, that is not an</p> <p>5 acceptable practice and is prohibited; correct?</p> <p>6 MR. PREGON: Objection.</p> <p>7 A How the policy reads, yes, it is prohibited.</p> <p>8 But at the time, we were attempting to assist medical, and</p> <p>9 Mr. Richardson at the time was not cooperating, and we</p> <p>10 were keeping him in the position that, you know, that was</p> <p>11 easiest for medical to, at the time, to provide care.</p> <p>12 BY MR. DICELO:</p> <p>13 Q So the time stamp we just looked at, is it your</p> <p>14 testimony that that's the position that medical wanted</p> <p>15 Mr. Richardson in?</p> <p>16 A That's the position that he was in when medical</p> <p>17 arrived, and we weren't advised by medical to change that</p> <p>18 position.</p> <p>19 Q I want to show you now a stamp 18:15.</p> <p>20 Mr. Richardson is in a prone position with his hands</p> <p>21 cuffed behind his back; true?</p> <p>22 MR. PREGON: Objection.</p> <p>23 A I'm not a hundred percent sure.</p> <p>24 BY MR. DICELO:</p>
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<p>1 Q Yeah.</p> <p>2 A Violent towards staff? I don't want to say yes</p> <p>3 or no, because when I had arrived, they were placing him</p> <p>4 in cuffs. I don't -- Like I said earlier, I don't know if</p> <p>5 he had just been assaulted or was involved in a fight with</p> <p>6 another inmate. I didn't even know if he had assaulted</p> <p>7 staff. Because they had called for an uncooperative</p> <p>8 inmate at the time, I didn't know if he had assaulted</p> <p>9 staff.</p> <p>10 Q So let me try to narrow it. I want to try to</p> <p>11 focus on when you were there what you knew, what you</p> <p>12 observed. Was Mr. Richardson being violent?</p> <p>13 A Towards staff at the time? It would have been</p> <p>14 hard for him to be violent with us, but he wasn't</p> <p>15 cooperating with what we were asking him to do or telling</p> <p>16 him to do.</p> <p>17 Q I appreciate the explanation. And I'm not</p> <p>18 suggesting your answer is not responsive, because I</p> <p>19 believe it is. But I'm focusing on this word "violent."</p> <p>20 Would you describe his behavior while you were there as</p> <p>21 violent?</p> <p>22 MR. PREGON: Asked and answered.</p> <p>23 A Yes.</p> <p>24 BY MR. DICELLO:</p>	<p>1 information.</p> <p>2 Q So you wouldn't have expected them to tell you</p> <p>3 even if they knew?</p> <p>4 A No, because I know that's a violation of the</p> <p>5 HIPAA law.</p> <p>6 Q All right. Did anybody from NaphCare or</p> <p>7 medical say that it was dangerous for Mr. Richardson to be</p> <p>8 in the position that he was in as depicted on the video?</p> <p>9 A No.</p> <p>10 Q You were there while Medic Stockhauser was</p> <p>11 there; correct?</p> <p>12 A That's correct.</p> <p>13 Q Were you there before Medic Stockhauser</p> <p>14 arrived?</p> <p>15 A Yes.</p> <p>16 Q How long after you arrived did Medic</p> <p>17 Stockhauser arrive?</p> <p>18 A I honestly couldn't give a specific timeframe</p> <p>19 if I had to, just because at that time it's -- I mean, you</p> <p>20 have -- we've got it feels like a million things going on</p> <p>21 at once.</p> <p>22 Q Yeah.</p> <p>23 A And I've kind of got, I don't want to say</p> <p>24 tunnel vision, but I'm focused on that. I'm not focused</p>
<p style="text-align: center;">Page 46</p>	<p style="text-align: center;">Page 48</p>

<p>1 correct?</p> <p>2 A Correct.</p> <p>3 Q You had some concern that he may be in the</p> <p>4 throws of some kind of medical episode; correct?</p> <p>5 A Possibly.</p> <p>6 Q You knew that he was obese; true?</p> <p>7 A Yes.</p> <p>8 Q Did you witness Medic Stockhauser trying to</p> <p>9 administer oxygen to Mr. Richardson?</p> <p>10 A I did.</p> <p>11 Q Based on the fact that you saw a medical person</p> <p>12 trying to administer oxygen to Mr. Richardson, did that in</p> <p>13 your own mind give you some reason to believe that maybe</p> <p>14 Mr. Richardson was having trouble breathing?</p> <p>15 MR. PREGON: Objection.</p> <p>16 A No.</p> <p>17 BY MR. DICELLO:</p> <p>18 Q So why did you think they were trying to give</p> <p>19 him oxygen?</p> <p>20 A To -- From my knowledge, that's a common</p> <p>21 practice when somebody is going through a medical</p> <p>22 emergency that they did not -- they couldn't identify what</p> <p>23 exactly was happening, they want to provide him with</p> <p>24 oxygen to, you know, assist with what's going on.</p>	<p>1 violence that you were aware of?</p> <p>2 A Not that I was aware of. That would have been</p> <p>3 my first encounter with him.</p> <p>4 Q The fact that he was on the D Pod, did you know</p> <p>5 at the time that he had been classified as a low risk for</p> <p>6 violence?</p> <p>7 A Yes.</p> <p>8 Q You didn't witness Mr. Richardson violate any</p> <p>9 jail rules on May 19th, 2012, did you?</p> <p>10 A No.</p> <p>11 Q You didn't witness him commit any crime on May</p> <p>12 19th, 2012 against anyone, did you?</p> <p>13 A No.</p> <p>14 Q Once the numbers had responded, you know, let's</p> <p>15 just go through some names here. Yourself, Stumpff,</p> <p>16 Mayes, Johnson, Henning, Jackson, Lewis. So I count seven</p> <p>17 officers that responded at one point?</p> <p>18 A (Nods head.)</p> <p>19 Q Yes?</p> <p>20 A Yes.</p> <p>21 Q Once you had the seven of you all there, did</p> <p>22 you believe that you had the situation under control?</p> <p>23 A Yes.</p> <p>24 Q Did you believe that you had eliminated any</p>
Page 50	Page 52
<p>1 Q Did Mr. Richardson appear disoriented to you?</p> <p>2 A Yes.</p> <p>3 Q Did you have the understanding that he needed</p> <p>4 medical attention?</p> <p>5 A After -- After Medic Stockhauser had arrived</p> <p>6 and began wiping blood and mucus from his mouth and when</p> <p>7 medical was -- when Stockhauser was trying to put the</p> <p>8 oxygen mask on him and he was knocking it off, I wasn't</p> <p>9 sure if he was refusing medical attention at the time or</p> <p>10 if it was a medical emergency.</p> <p>11 Q So you also knew that Mr. Richardson had some</p> <p>12 blood and mucus coming from his mouth or nose area?</p> <p>13 A Yes.</p> <p>14 Q Did Mr. Richardson hurt anyone during this</p> <p>15 episode?</p> <p>16 A Not that I believe.</p> <p>17 Q Were you injured?</p> <p>18 A No.</p> <p>19 Q Did Mr. Richardson ever try to injure you?</p> <p>20 A No.</p> <p>21 Q Did you witness Mr. Richardson ever try to</p> <p>22 injure anyone?</p> <p>23 A No.</p> <p>24 Q Did Mr. Richardson have some kind of history of</p>	<p>1 potential threat that Mr. Richardson could pose?</p> <p>2 A Yes.</p> <p>3 Q We talked a little bit about positional</p> <p>4 asphyxia. I think you might have used the term</p> <p>5 "positional asphyxiation." Do you understand that that's</p> <p>6 a medical condition?</p> <p>7 A Yes.</p> <p>8 Q And do you understand that it can kill?</p> <p>9 A Yes.</p> <p>10 Q There are certain risk factors that make one</p> <p>11 person more prone, pardon to use the term, but more prone</p> <p>12 to die from positional asphyxia when restrained than</p> <p>13 others. Were you aware of that?</p> <p>14 A Yes.</p> <p>15 Q And I want to go through some of those risk</p> <p>16 factors and see if you were aware of that as of May 19th,</p> <p>17 2012. Obesity. Do you understand that that was a risk</p> <p>18 factor that makes someone more likely to die from</p> <p>19 positional asphyxia when they're restrained in a prone</p> <p>20 position?</p> <p>21 A Yes.</p> <p>22 Q And even within the group of people who are</p> <p>23 obese, did you know that someone who has a particularly</p> <p>24 large abdomen is at an even higher risk of dying from</p>
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<p>1 positional asphyxia when they're restrained on their 2 belly?</p> <p>3 A On the abdomen, no, I did not know that.</p> <p>4 Q All right. Preexisting heart disease. Did you 5 know or had you been trained that that is a risk factor 6 that increases someone's risk of dying from positional 7 asphyxia from being restrained on their belly?</p> <p>8 A No.</p> <p>9 Q How about pressure on the abdomen itself? Did 10 you know that that was -- if that was a risk factor that 11 increased the likelihood of death by positional asphyxia 12 during restraint?</p> <p>13 A On the abdomen?</p> <p>14 Q Yes.</p> <p>15 A No.</p> <p>16 Q Pressure on the back? Did you know that that 17 was a risk factor that increases the risk of positional 18 asphyxia as a result -- when being restrained on the 19 belly?</p> <p>20 A Yes.</p> <p>21 Q And when I say "back," would that include -- 22 were you aware that pressure on the back of the neck can 23 increase the risk of positional asphyxia, or no?</p> <p>24 A I would -- From training, I would say yes.</p>	<p>1 Q -- that you remember?</p> <p>2 A I believe in my report I put that he had said 3 at times "get off me" and "stop."</p> <p>4 Q Okay.</p> <p>5 A And that was --</p> <p>6 Q That's what you remember?</p> <p>7 A That's what I remember, yes.</p> <p>8 Q Did you say anything to him?</p> <p>9 A I was -- At that time, I can't remember exact 10 words, but I would be telling him to calm -- you know, 11 calm down, we're here to help you, we're not -- you know, 12 at this point when it's been discovered that it's actually 13 a medical, something medically is going on with him, I'm 14 trying to calm him down and tell him medical is just 15 trying to help you.</p> <p>16 Because we have guys that come out of seizures 17 that want to fight with staff that we've had to, you know, 18 kind of keep down on the ground until they realize that 19 they just had a medical emergency, being a seizure, and, 20 you know, we're there to help them, not to cause more 21 damage or to hurt them.</p> <p>22 Q Did Mr. Richardson appear to be appreciating 23 what you were saying?</p> <p>24 A No.</p>
<p style="text-align: center;">Page 54</p> <p>1 Q And how about pressure on the shoulder blades? 2 Were you trained that that is a risk factor that increases 3 the risk of death by positional asphyxia when someone is 4 restrained on their belly?</p> <p>5 A No.</p> <p>6 Q Somebody who has been in a struggle with 7 officers. Were you trained that that person is at a 8 higher risk of in-custody death when restrained on their 9 belly?</p> <p>10 MR. PREGON: Objection.</p> <p>11 Go ahead.</p> <p>12 A No.</p> <p>13 BY MR. DICELLO:</p> <p>14 Q Enlarged heart. Have you ever heard that 15 that's a risk factor for positional asphyxia?</p> <p>16 A No.</p> <p>17 Q I asked you about if you heard Mr. Richardson 18 say anything. I think we might have focused on the 19 beginning of the incident where you said he was making 20 some unintelligible sounds. Is that fair?</p> <p>21 A Yes.</p> <p>22 Q Over the course of the 22 minutes, did he ever 23 get to the point where he was actually saying anything --</p> <p>24 A I believe --</p>	<p style="text-align: center;">Page 55</p> <p>1 Q Did you hear him grunting or gasping?</p> <p>2 A Gasping, no. Grunting, I would say -- I would 3 say yes. And that was more of him trying to move forward 4 like he was trying to, you know, to retch his body up to 5 move -- to move from where he was at.</p> <p>6 Q Yeah.</p> <p>7 A I don't want to say move forward, but to move 8 from positions.</p> <p>9 Q Did you know whether or not an officer was 10 straddling Mr. Richardson?</p> <p>11 A Straddling where?</p> <p>12 Q Near the rear thighs, knees, or hips area?</p> <p>13 A I believe they were -- they were -- they 14 weren't sitting on him, but they had both knees over top 15 of him, I believe so.</p> <p>16 Q Did you hear Mr. Richardson at any time up to 17 the time he was noticed to have stopped breathing emit 18 like a gurgling sound?</p> <p>19 A No.</p> <p>20 Q Did you hear Mr. Richardson at any time 21 complain that he couldn't breathe?</p> <p>22 A No.</p> <p>23 Q Did you ever consider rolling him over onto his 24 back to get him off his belly?</p>

<p>1 A I would have -- At the time when medical is 2 providing care, I would have -- because they have a higher 3 training than I would in the medical field, I would -- you 4 know, they kind of take over. And whatever they're doing, 5 it takes top priority. So if they need him in a certain 6 position, that's where we're going to, you know, place 7 him.</p> <p>8 Q Did you ever hear Medic Stockhauser request 9 that Mr. Richardson be cuffed in the front and laid on his 10 back?</p> <p>11 A No.</p> <p>12 Q If Medic Stockhauser had said that, would you 13 have done it?</p> <p>14 A Absolutely.</p> <p>15 Q Did you ever hear Nurse Miles give any 16 instruction about cuffing Mr. Richardson in the front and 17 putting him on his back?</p> <p>18 A No.</p> <p>19 Q Did you ever hear Sergeant Jackson or Lewis 20 instruct any of you on how to position Mr. Richardson?</p> <p>21 A No.</p> <p>22 Q Who made the decision to position him the way 23 you guys had him?</p> <p>24 A I don't think it was a decision made. I think</p>	<p>1 Q So how long did it take you all to realize this 2 guy isn't going to be cooperating? In the first five 3 minutes, ten minutes?</p> <p>4 A That would be up to a sergeant's decision 5 whether or not, you know, he's gonna -- if he thinks that 6 he needs to be placed in the chair. A corrections officer 7 can't decide that. It has to be a supervisor.</p> <p>8 Q I know you're doing your best to answer the 9 question, but I'm not sure I got an answer. When you 10 understood the plan was to put him in the restraint chair, 11 was that early, middle, or near the end?</p> <p>12 A I would say it was early on after he had been 13 removed from the cell.</p> <p>14 Q Have you ever been ordered to retrieve the 15 emergency restraint chair?</p> <p>16 A Yes.</p> <p>17 Q Is it your understanding that one of the 18 purposes of a restraint chair is to restrain somebody in a 19 safe position?</p> <p>20 MR. PREGON: Objection.</p> <p>21 A Yes.</p> <p>22 BY MR. DICELLO:</p> <p>23 Q And is it your understanding that the chair is 24 designed for restraint?</p>
<p style="text-align: center;">Page 58</p>	<p style="text-align: center;">Page 60</p>

<p>1 BY MR. DICELLO:</p> <p>2 Q Were you asked to fill out any Use of Force</p> <p>3 Reports as a result of your interaction with</p> <p>4 Mr. Richardson?</p> <p>5 A No.</p> <p>6 Q Did Mr. Richardson pose any risk to you that</p> <p>7 you appreciated at the time?</p> <p>8 A No.</p> <p>9 Q And what about any risk to any others? Did you</p> <p>10 appreciate that he posed some kind of risk to other</p> <p>11 people?</p> <p>12 MR. PREGON: Objection.</p> <p>13 BY MR. DICELLO:</p> <p>14 Q That you appreciated.</p> <p>15 MR. PREGON: At what time?</p> <p>16 BY MR. DICELLO:</p> <p>17 Q During the time that you were there.</p> <p>18 A I would say he was a risk to himself.</p> <p>19 Q Anybody else?</p> <p>20 A No.</p> <p>21 Q Do you remember Stockhauser saying anything?</p> <p>22 MR. PREGON: Asked and answered.</p> <p>23 Go ahead.</p> <p>24 A I believe he, at the time he was telling him</p>	<p>1 out of the syringe and didn't get injected; correct?</p> <p>2 A As far as to my knowledge, yes.</p> <p>3 Q I can't recall who I asked this, but at the</p> <p>4 time that Mr. Richardson received the first injection, I</p> <p>5 believe it was going to be administered to his buttocks</p> <p>6 area; correct?</p> <p>7 A I believe so.</p> <p>8 Q So his pants were pulled down a little bit;</p> <p>9 correct?</p> <p>10 A They weren't pulled down. It was -- I don't</p> <p>11 want to say they were pulled down to expose his lower</p> <p>12 half.</p> <p>13 Q Yeah.</p> <p>14 A But they were pulled down slightly to give the</p> <p>15 shot. And I believe at the time they were possibly</p> <p>16 already down a little bit from him scooting forward and,</p> <p>17 you know, those jail uniforms don't -- it's not one size</p> <p>18 fits all. Some of them are -- Some of the guys order them</p> <p>19 big, some of them will order them small. So they could</p> <p>20 have been down a little bit to begin with.</p> <p>21 Q All right. Was Mr. Richardson struggling at</p> <p>22 the time the shot was administered, the first shot?</p> <p>23 A I would say he still wasn't cooperating with</p> <p>24 us, he wasn't staying still, he is, you know, what</p>
<p style="text-align: center;">Page 62</p>	<p style="text-align: center;">Page 64</p>

<p>1 Q But Mr. Richardson was kept in the same 2 position even after that time; true?</p> <p>3 A I believe so, yes.</p> <p>4 Q And according to Captain Crosby's timeline, the 5 shot administered by Nurse Foster was at 15:37:15. Is 6 that consistent with your recollection?</p> <p>7 A I believe so.</p> <p>8 Q And Mr. Richardson was rolled onto his back at 9 15:41:11. So that is about four minutes later; correct?</p> <p>10 A Yes.</p> <p>11 Q And you're telling us that within kind of the 12 first minute of receiving the injection, you noticed a 13 change in his demeanor?</p> <p>14 A I would believe so, yes. In this case, yes. 15 I've seen shots where they've administered them before and 16 they don't -- it seems like it takes an hour before --</p> <p>17 Q Yeah.</p> <p>18 A -- the person begins to calm down. This one, 19 it seemed like it was, you know, working like it should, 20 it should be, to my knowledge.</p> <p>21 Q So when you perceived that within a minute of 22 the second shot being administered, why didn't you sit 23 Mr. Richardson up to get him off his belly?</p> <p>24 A I wasn't advised to.</p>	<p>1 the same day; correct?</p> <p>2 A Yes.</p> <p>3 Q So you entered this statement within a couple 4 of hours of this incident occurring; true?</p> <p>5 A Yes.</p> <p>6 Q And you're pretty specific in the second, or 7 the third paragraph I guess, about what you saw coming 8 from Inmate or Detainee Richardson's kind of mouth and 9 nose area. You describe it as blood, sweat, saliva, and 10 mucus; correct?</p> <p>11 A Yes.</p> <p>12 Q Because you saw all those things; true?</p> <p>13 A Yes.</p> <p>14 Q You do describe him as thrashing his body. Do 15 you see that?</p> <p>16 A Yes.</p> <p>17 Q And so you had to put enough pressure on his 18 shoulder to prevent him from thrashing it at times; true?</p> <p>19 A I wasn't putting pressure, I was placing my 20 hands on him just to control it. I wasn't taking it and 21 pushing it and forcing him to the ground. I was just 22 trying to control him from --</p> <p>23 Q Thrashing?</p> <p>24 A From thrashing, yes.</p>
<p style="text-align: center;">Page 66</p>	<p style="text-align: center;">Page 68</p>

<p>1 of a supervisor.</p> <p>2 BY MR. DICELLO:</p> <p>3 Q So after you completed this Tiburon report at</p> <p>4 about 5:41 that night, did anyone come to talk to you</p> <p>5 about what happened?</p> <p>6 A What do you mean, supervisor or --</p> <p>7 Q Yeah, let's start with a supervisor. Were you</p> <p>8 ever kind of debriefed about the incident?</p> <p>9 A We have -- On this particular incident, at the</p> <p>10 time by a sergeant, no. We do have debriefings after we</p> <p>11 have in-custody death. We are -- We meet. Basically, we</p> <p>12 are provided with information of our mental health</p> <p>13 counseling. If we were having trouble with, you know,</p> <p>14 coping with what has happened, they basically give us the</p> <p>15 information saying you can speak with mental health if</p> <p>16 you're having, you know, trouble sleeping, you know, if</p> <p>17 you're having flashbacks, stuff like that.</p> <p>18 Q So they offer those services to you?</p> <p>19 A Yes.</p> <p>20 Q Other than offering mental health counseling</p> <p>21 services to the officers who were involved in</p> <p>22 Mr. Richardson's death, are you aware of any other kind of</p> <p>23 debriefing that occurred from supervisors about the</p> <p>24 situation?</p>	<p>1 Q So I know you are a co-workers with some of the</p> <p>2 corrections officers who were involved; true?</p> <p>3 A Yes.</p> <p>4 Q Are you friends with these guys?</p> <p>5 A Yes.</p> <p>6 Q Which one of the guys that were there in</p> <p>7 particular do you consider yourself to be friends with?</p> <p>8 MR. PREGON: Involved in this case? Or is that</p> <p>9 a general?</p> <p>10 MR. DICELLO: No, I'm talking about who was on</p> <p>11 D Pod that day when Mr. Richardson died.</p> <p>12 A I mean, I have a, you know, close friendship</p> <p>13 with Michael Beach.</p> <p>14 BY MR. DICELLO:</p> <p>15 Q Beach?</p> <p>16 A Stumpff.</p> <p>17 Q Stumpff?</p> <p>18 A Yeah.</p> <p>19 Q Are these guys that you are friends with</p> <p>20 outside of work?</p> <p>21 A Yeah.</p> <p>22 Q Okay, good. Have you guys talked about what</p> <p>23 happened?</p> <p>24 A No.</p>
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<p>1 A No.</p> <p>2 MR. PREGON: Involving him?</p> <p>3 MR. DICELLO: Yeah.</p> <p>4 A No.</p> <p>5 BY MR. DICELLO:</p> <p>6 Q So did anyone ever come to you and say you did</p> <p>7 or didn't follow policy or procedure?</p> <p>8 A No.</p> <p>9 Q Did anybody ever come to you and offer any</p> <p>10 critique on how to handle the situation differently?</p> <p>11 A No.</p> <p>12 Q I presume of course you weren't disciplined as</p> <p>13 a result of this; correct?</p> <p>14 A No.</p> <p>15 Q And you weren't instructed to undergo any new</p> <p>16 or different retraining or anything like that?</p> <p>17 A No.</p> <p>18 Q Did anybody, any of your supervisors ever</p> <p>19 inform you how Mr. Richardson died?</p> <p>20 A No.</p> <p>21 Q Did you ask anybody how he died?</p> <p>22 A No.</p> <p>23 Q Do you know how he died?</p> <p>24 A I do not.</p>	<p>1 Q Why not?</p> <p>2 A It's -- It's a pending court case, you know.</p> <p>3 Q What about before the -- The case was filed</p> <p>4 almost two years after it happened. What about the two</p> <p>5 years after this happened? Did you guys ever talk about</p> <p>6 what happened?</p> <p>7 A No.</p> <p>8 Q You know, I don't work in corrections, but do</p> <p>9 you know how old Mr. Richardson was?</p> <p>10 A I do not.</p> <p>11 Q Well, I'll tell you. He was a 28-year-old guy,</p> <p>12 okay? A 28-year-old man died while you all were</p> <p>13 restraining him; correct?</p> <p>14 A Correct.</p> <p>15 Q And that wasn't an occurrence that even caused</p> <p>16 you guys to even talk about; right?</p> <p>17 A I mean, during that day, you know, it's -- not</p> <p>18 -- it's not like we waited two, three weeks down the road</p> <p>19 and said, "Hey, do you remember that time this happened,"</p> <p>20 you know. It's, you know, people come back, go back and</p> <p>21 read reports, and they'll come up and say, "Hey, what</p> <p>22 happened" here and there. But I don't particularly</p> <p>23 remember anybody coming up and asking me, "Hey, what did</p> <p>24 you do during this," you know.</p>
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<p>1 Q All right.</p> <p>2 A Anything like that.</p> <p>3 Q Do you have any interest in knowing how</p> <p>4 Mr. Richardson died?</p> <p>5 A Absolutely.</p> <p>6 Q So what have you done, if anything, to satisfy</p> <p>7 that interest of knowing how a member of the community</p> <p>8 under your care, custody, and control died? Have you done</p> <p>9 anything?</p> <p>10 MR. PREGON: Anything we talk about is off</p> <p>11 limits. So he's asking outside --</p> <p>12 A Outside of here, no.</p> <p>13 BY MR. DICELLO:</p> <p>14 Q Sorry, I lost my train of thought. I had a</p> <p>15 next question for you.</p> <p>16 If faced with the same circumstances today, you</p> <p>17 would expect yourself and the other correction officers to</p> <p>18 respond in the same way; true?</p> <p>19 A Yes.</p> <p>20 Q And nobody at the jail has ever told you to go</p> <p>21 about restraining somebody under these circumstances any</p> <p>22 differently?</p> <p>23 A No.</p> <p>24 Q Correct?</p>	<p>1 any particular time in the jail.</p> <p>2 Q Did any of the medical folks ever announce that</p> <p>3 they had any concerns that Mr. Richardson was suffering a</p> <p>4 heart attack?</p> <p>5 A No.</p> <p>6 Q Did Mr. Richardson ever grab his chest and say</p> <p>7 he was having chest pain?</p> <p>8 A At the time I was there, he was already cuffed.</p> <p>9 He wouldn't have been able to.</p> <p>10 Q Did he say that he was having chest pain?</p> <p>11 A No.</p> <p>12 Q Going through my notes here. I think I'm done.</p> <p>13 MR. DICELLO: Carrie, do you have any questions</p> <p>14 for him?</p> <p>15 MS. STARTS: No.</p> <p>16 BY MR. DICELLO:</p> <p>17 Q Do you understand that when something like this</p> <p>18 happens, the medical staff kind of has their own paperwork</p> <p>19 that they fill out about what happened?</p> <p>20 A I do.</p> <p>21 Q And do you understand that there's a health</p> <p>22 services administrator at the jail?</p> <p>23 A Yes.</p> <p>24 Q The HSA?</p>
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<p>1 Mr. Richardson's back or neck?</p> <p>2 A No.</p> <p>3 Q I remember what it was. Prior to</p> <p>4 Mr. Richardson's incident, had you ever participated in an</p> <p>5 episode where someone was maintained in the position</p> <p>6 Mr. Richardson was maintained in with his hands cuffed</p> <p>7 behind his back for that length of time?</p> <p>8 A No.</p> <p>9 Q Since Mr. Richardson's death, have you ever</p> <p>10 participated in a restraint situation where officers</p> <p>11 restrained somebody with their hands cuffed behind their</p> <p>12 back in a position similar to Mr. Richardson for that</p> <p>13 length of time?</p> <p>14 A No.</p> <p>15 Q The situations that you've been involved in in</p> <p>16 the jail where you've had to put somebody, and you</p> <p>17 mentioned some of them, on their belly with their hands</p> <p>18 cuffed behind their back, how long, other than</p> <p>19 Mr. Richardson's situation, what's the longest time you've</p> <p>20 ever maintained somebody in that position?</p> <p>21 MR. PREGON: Object to form.</p> <p>22 A Honestly, I honestly don't know. It depends on</p> <p>23 how soon they cooperate with us or cooperate with what</p> <p>24 we're trying to accomplish, whether that be putting them</p>	<p>1 position Mr. Richardson was in for as long as 22 minutes</p> <p>2 ever before other than Mr. Richardson; correct?</p> <p>3 MR. PREGON: Object to form.</p> <p>4 Go ahead.</p> <p>5 A No, I have not.</p> <p>6 BY MR. DICELLO:</p> <p>7 Q Have you ever done it, maintained somebody in</p> <p>8 that position for as long as ten minutes, do you think?</p> <p>9 MR. PREGON: Object to form.</p> <p>10 Go ahead.</p> <p>11 A Not to my knowledge.</p> <p>12 BY MR. DICELLO:</p> <p>13 Q Have you ever maintained somebody in that</p> <p>14 position for as long as five minutes, do you think?</p> <p>15 MR. PREGON: Object to form.</p> <p>16 Go ahead.</p> <p>17 A I would say yes.</p> <p>18 BY MR. DICELLO:</p> <p>19 Q So it sounds to me like other than the</p> <p>20 Richardson situation, it sounds to me like you've been</p> <p>21 involved in situations where you've had people on their</p> <p>22 belly with their hands cuffed behind their back for maybe</p> <p>23 as long as between five and ten minutes, but no longer</p> <p>24 than that; is that fair?</p>
Page 78	Page 80
<p>1 in the chair or, you know, coming out of a medical</p> <p>2 emergency.</p> <p>3 BY MR. DICELLO:</p> <p>4 Q Okay.</p> <p>5 A Or, you know, just cooperating with us in</p> <p>6 general after we're explaining -- you know, when we take</p> <p>7 them into a cell, when we lay them down on their stomach</p> <p>8 to remove cuffs, from somebody coming from receiving,</p> <p>9 we'll explain to them, we're going to take your cuffs off,</p> <p>10 you need to put your arms down to your side, you need to</p> <p>11 stay there until the door shuts. We have inmates that</p> <p>12 we'll explain that to them and they'll say, okay, as soon</p> <p>13 as you take the cuffs off we're going to jump up. So that</p> <p>14 prolongs the time that it takes that he would be on his</p> <p>15 stomach or in the prone position, because we're going to</p> <p>16 have to explain that again. And usually a sergeant is</p> <p>17 going to come in at that point. They're going to be at</p> <p>18 the incident, but they're going to come in and explain,</p> <p>19 listen, you need to listen to what they're telling you.</p> <p>20 If you don't, you're going to get pepper sprayed, tased,</p> <p>21 we're going to put you in the chair, you know, if you</p> <p>22 don't follow the orders that they're telling you to do.</p> <p>23 Q So I'm trying to -- Maybe I can help. But you</p> <p>24 told me that you've never maintained somebody in the</p>	<p>1 MR. PREGON: Object to form.</p> <p>2 Go ahead.</p> <p>3 A Sometimes, yes.</p> <p>4 BY MR. DICELLO:</p> <p>5 Q Ever been involved in any other situations</p> <p>6 where a member of the community died where you were</p> <p>7 restraining them?</p> <p>8 A No.</p> <p>9 Q This is the only one?</p> <p>10 A Yes.</p> <p>11 Q Have you ever heard of any other situations</p> <p>12 where, while you've been employed at the Montgomery County</p> <p>13 Jail, where a detainee died while being restrained?</p> <p>14 A No.</p> <p>15 MR. PREGON: Objection.</p> <p>16 BY MR. DICELLO:</p> <p>17 Q Have you ever had anybody die in the restraint</p> <p>18 chair at Montgomery County Sheriff's Office while you've</p> <p>19 been there?</p> <p>20 A To my knowledge, no.</p> <p>21 Q Those are all the questions I have. I</p> <p>22 appreciate you coming in. Thank you.</p> <p>23 MR. PREGON: And we'll read.</p> <p>24 ---</p>

1 State of _____
2 County of _____
3 I, BRADLEY MARSHALL, do hereby certify that I
4 have read the foregoing transcript of my deposition given
5 on December 9, 2015; that together with the correction
6 page attached hereto noting changes in form or substance,
7 if any, it is true and correct.

10 I do hereby certify that the foregoing transcript
11 of the deposition of BRADLEY MARSHALL was submitted to the
12 witness for reading and signing; that after he had stated
13 to the undersigned Notary Public that he had read and
14 examined his deposition, he signed the same in my presence
15 on the ____ day of _____, 2015.

17 Notary Public
18 My Commission Expires on _____

18 My Commission Expires on _____

24

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Page 84

8 The Rules of Civil Procedure allow thirty days for
9 you to read and sign. Please return the signature page
10 and errata sheet to Whitney Layne, 6723 Cooperstone Drive,
11 Dublin, Ohio 43017 within that time. Failure to do so in
12 the allotted time will result in your transcript being
13 used as though read and signed by you.

Singer

13 Whitney Layne
Professional Reporter

15 Cc:
Nick DiCello
Carrie Starts
16 Jamey Pregon

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Page 84

1 State of Ohio

2 County of Montgomery

3 I, BRADLEY MARSHALL, do hereby certify that I
4 have read the foregoing transcript of my deposition given
5 on December 9, 2015; that together with the correction
6 page attached hereto noting changes in form or substance,
7 if any, it is true and correct.

Bradley Marshall

9
BRADLEY MARSHALL

10 I do hereby certify that the foregoing transcript
11 of the deposition of BRADLEY MARSHALL was submitted to the
12 witness for reading and signing; that after he had stated
13 to the undersigned Notary Public that he had read and
14 examined his deposition, he signed the same in my presence
15 on the 28 day of JANUARY, 2015.

Alice Logan

16
17 Notary Public

18 My Commission Expires on 3/29/2017

19 - - -

20

21

22

23

24



ALICE LOGAN
Notary Public, State of Ohio
My Commission Expires
March 29, 2017
Recorded in Warren County

1 TO THE REPORTER:

2 I have read the entire transcript of my deposition taken
3 on the 28th day of January, 2016, or the same has been
4 read to me. I request that the following changes be
5 entered upon the record for the reasons indicated.

6

7 Page Line Correction and reason therefore

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

20 _____

21 _____

22 _____

23 Date 1/28/2016 Signature R. J. Mull

24

1 CERTIFICATE

2 State of Ohio :

3 County of Franklin:

4

5 I, Whitney Layne, Notary Public in and for the
6 State of Ohio, duly commissioned and qualified, certify
7 that the within named BRADLEY MARSHALL was by me duly
8 sworn to testify to the whole truth in the cause
9 aforesaid; that the testimony was taken down by me in
10 stenotype in the presence of said witness; afterwards
11 transcribed upon a computer; that the foregoing is a true
12 and correct transcript of the testimony given by said
13 witness taken at the time and place in the foregoing
14 caption specified.

15

16 IN WITNESS WHEREOF, I have set my hand and
17 affixed my seal of office at Dublin, Ohio, on this 29th
18 day of Decemer, 2015.

19 Whitney Layne

20 Whitney Layne, Notary Public

21 In and for the State of Ohio

22 My Commission expires May 4, 2020

23

24

A	B	C
<p>a abdomen 53:24 54:3,9,13 able 13:10 30:23 76:9 Absolutely 27:8,10 27:15 58:14 74:5 acceptable 16:2,7 17:18,22 18:15 42:20 44:5 access 39:15,16 40:1,4,7 47:24 accomplish 23:22 78:24 accomplished 28:3 accomplishing 27:13 accuracy 8:7 accurate 6:6 acknowledged 69:14 acting 47:13 action 30:13 actual 42:24 addresses 41:3 administer 50:9,12 65:8 administered 64:5 64:22 65:3,5,11 65:19 66:5,15,22 77:8 administratively 77:3 administrator 1:4 76:22 advised 44:17 66:24 affixed 86:17 aforesaid 86:9 afternoon 5:6 age 9:21 ago 69:13 agree 13:23 15:15 15:23 16:3 18:18 19:1 24:16 25:6 25:14 28:4 31:18 43:18 agreed 23:20 32:13 ahead 15:19 19:4 20:19 22:9 38:18 55:11 59:14 62:23 77:14 80:4,10,16 81:2 al 1:8 allotted 83:10 allow 17:3 83:8 allowed 47:24 alongside 75:24 Andrew 1:5 ankle 41:12 announce 76:2</p>	<p>answer 6:19,23 7:14 8:3 15:21 24:24 38:18 46:18 60:8 60:9 67:1 answered 46:22 62:22 answers 6:14 7:18 8:7 24:22 anybody 28:9 30:2 36:23 47:19,22 apologize 39:18 apparent 42:6 appear 19:15 32:21 51:1 56:22 APPEARANCES 2:1 appeared 65:1,13 65:23 appears 33:5 45:6 47:10 applicable 1:14 3:6 applied 16:18 18:1 18:13 applies 14:24 apply 13:24 18:8,14 applying 16:14 41:7 appreciate 18:6 30:24 46:17 62:10 65:22 81:22 appreciated 62:7,14 appreciating 56:22 area 8:13 33:6 51:12 57:12 64:6 68:9 arm 33:2 armed 49:19 arms 22:17,18 79:10 arrangement 6:19 arrive 11:21 45:11 48:17 arrived 11:23 29:22 29:24 30:6,15,23 43:7 44:17 46:3 48:14,16 49:14 51:5 asked 6:17,20 8:1 28:24 46:22 55:17 62:2,22 64:3 asking 15:23 46:15 73:23 74:11 asks 59:22 asphyxia 23:15 53:4 53:12,19 54:1,7 54:11,18,23 55:3 55:15 asphyxiation 22:11</p>	<p>beginning 55:19 begins 66:18 behalf 2:5,9,13 5:22 behaving 47:1 behavior 46:20 47:5 47:10 65:12 believe 13:5 14:6 17:17,22 27:24 29:9,20,24 30:5 30:10,14 34:5,8 38:19 40:9 43:23 ASSOCIATES 1:20 assume 6:20 assumption 59:13 attached 84:6 attack 76:4 attempted 63:22 attempting 30:2 44:8 attend 8:17 attention 41:7 47:4 51:4,9 attorneys 37:8 attribute 65:18 Avenue 1:15 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